



## U.S. Department of Justice

Executive Office for United States Trustees

]

[insert address]

[insert date]

### VIA ELECTRONIC MAIL

[insert email address]

[insert name  
Title  
Agency name  
Address]

Re: Quality of Service Review of [insert Agency name]  
Agency Number [insert number]

Dear [insert name]:

Pursuant to 28 C.F.R. §§ 58.20(p)(2) and 58.33(n)(2),<sup>1</sup> which require approved credit counseling agencies and debtor education providers to cooperate with inquiries by the United States Trustee and the Executive Office for United States Trustees (“EOUST”), we have commenced a Quality of Service Review (“QSR”) concerning your agency. I appreciate your cooperation in our review.

The on-site portion of the QSR will take place during the week of [insert date] approximately 45 days from the date of the letter]. During that time, EOUST personnel will visit your office to observe counseling sessions, interview management and staff, review books and records, and otherwise ensure compliance with the requirements of 11 U.S.C. § 111 and 28 C.F.R. § 58.12 et seq.

Please provide copies of the documents set forth on the attached Appendix A on or before [insert date approximately two weeks before visit]. Please provide written answers to the questions set forth on the attached Appendix B at the same time. Please submit responsive documents and written answers by electronic means (such as email or cloud storage) to my attention at [insert email address]. By providing timely and complete responses to these requests, you will enable us to complete portions of our review before the on-site portion of the QSR, minimizing interruption of your daily operations.

---

<sup>1</sup> *Application Procedures and Criteria for Approval of Nonprofit Budget and Credit Counseling Agencies by United States Trustee*, 28 C.F.R. §§ 58.12 – 58.24 and *Application Procedures and Criteria for Approval of Providers of a Personal Financial Management Instruction Course by United States Trustee*, 28 C.F.R. §§ 58.25-58.36.

Agency No. [insert]

During the on-site portion of the QSR, EOUST personnel will review certain documents that we do not request you send in advance. I attach a list of those documents (Appendix C) and request that you provide these documents for inspection upon the team's arrival. I have also attached a fillable Tax Information Authorization form and a Certification (certifying that all the responses provided are true and correct), both of which will need to be completed and signed by the appropriate agency representative.

Again, I appreciate your cooperation. If you have any questions or concerns, please do not hesitate to contact me at [insert telephone number] or by email at [insert email address]. Please send a reply confirming receipt of this letter.

Very truly yours,

[insert name]  
[insert title]

Attachments

cc: Juliet Drake  
[insert other names]

# **APPENDIX A**

(Document Requests)

Copies of the following documents and a completed Appendix A should be provided by [insert date]. Do not leave any document request unaddressed. If no responsive documents exist, please write “No documents” or “Not applicable” next to the relevant request. If the responsive documents exist but are not provided, please respond “No” and include a written explanation for the omission on a separate sheet.

Please provide copies by electronic media unless other arrangements are made.

	<b>Document Description</b>	<b>Provided? (Y/N)</b>
1.	For each state in which the agency operates, a copy of a. the agency’s license or registration or b. a legal opinion from counsel that neither licenses nor registrations are necessary	
2.	A copy of the most recent IRS Form 990 or other tax return, including Form 1120 if the agency is not tax-exempt pursuant to section 501(c) of the Internal Revenue Code	
3.	Complete and return the attached Tax Information Authorization form. This form is screen-fillable.	
4.	An organizational chart including the names of all supervisory and management level employees	
5.	Resumes for all board members, officers, managers, and counselors who have been newly employed during the past three years	
6.	Minutes of the Board of Directors meetings for the past three years	
7.	Financial records: a. the most recent financial statement (balance sheet, income statement and cash flow statements) b. the most recent audited financial statement, including any trust account audit	

8.	Agency policies, procedures, and training manuals concerning operations, including cash management and internal controls	
9.	Advertising, marketing, and promotional documents, whether produced by the agency or a third party, and whether distributed to the public at large or to individuals	
10.	<p>All contracts, leases, and agreements in effect during the past three years between the agency and any person or entity</p> <p>This includes, without limitation,</p> <ul style="list-style-type: none"> <li>a. referral agreements by or between the agency and any attorney or law firm, whether compensated or uncompensated;</li> <li>b. referral agreements by or between the agency and any bankruptcy petition preparer, whether compensated or uncompensated;</li> <li>c. referral agreements by or between the agency and any other entity, whether for the purpose of credit counseling and debtor education, debt management plans, or another purpose, and whether compensated or uncompensated</li> </ul>	
11.	Documents evidencing the agency's accreditation, if any	
12.	The Board of Directors' conflict of interest policy	
13.	<p>A list identifying by name each current credit counselor and for each such counselor:</p> <ul style="list-style-type: none"> <li>a. a copy of the counselor's most recent criminal background check, redacting the counselor's Social Security number; and</li> <li>b. the counselor's most recent certification by the certifying organization, if applicable</li> </ul>	
14.	Agency policies, procedures, and training manuals concerning counseling and educational services	
15.	<p>Any and all client forms, whether or not produced by the agency or a third party</p> <p>If such forms are set forth on the internet, please provide the Uniform Resource Locator (URL) for the web page on which the forms are located and PDF copies of the forms.</p>	
16.	The agency's client disclosures	

17.	The agency's written fee schedule	
18.	The agency's written fee waiver policy	
19.	Completed "Appendix E: Activity Report for Approved Credit Counseling Agencies" for the most recent six month period	
20.	Articles of incorporation, by-laws, articles of merger or exchange, articles of dissolution, and any and all amendments to the above	
21.	Applications for and certificates of membership in credit counseling organizations or other organizations that promote the quality of the agency	
22.	Debt Management/Repayment Plans only: A computation setting forth the minimum amount of the agency's required surety bonds and employee bonding or fidelity insurance, or similar securities  If this request is inapplicable because the agency does not offer debt management plans, please state accordingly.	
23.	Debt Management/Repayment Plans only: Proof of renewal of all surety bonds, employee bonding or fidelity insurance, or similar securities, including copies of individual state bonds  If this request is inapplicable because the agency does not offer debt management plans, please state accordingly.	
24.	Debt Management/Repayment Plans only: Copies of any agreements with debt management plan (DMP) service providers with whom the agency has contracted to administer any part of its DMP  If this request is inapplicable because the agency does not offer debt management plans, please state accordingly.	

Agency No. [insert]

25.	<p>Debt Management/Repayment Plans only: A list of all financial institutions in which funds are deposited, including</p> <ul style="list-style-type: none"><li>a. the name of the institution;</li><li>b. the branch location;</li><li>c. account number(s); and</li><li>d. a copy of the most recent monthly statement for each account</li></ul> <p>If this request is inapplicable because the agency does not offer debt management plans, please state accordingly.</p>	
-----	---	--

# **APPENDIX B**

(Preliminary QSR Questions)

Written answers to the following questions should be provided by [insert date]. Do not leave any question unaddressed. If the answer to any question is “none” or “not applicable,” please respond by writing “None” or “Not Applicable.” For example, if your agency does not provide counseling in person or by telephone, or does not offer debt management plans, please respond “Not Applicable” to those questions.

If you need additional room, please attach a separate statement with the question number.

Please submit responses by electronic media unless other arrangements are made.

1. Identify all persons who participated in answering or who supplied information upon which you relied in providing the documents requested in Appendix A or in answering the questions below.

## Business Organization

2. List each state in which the agency operates, including the applicable license or registration number for each. If no license or registration is required, provide an explanatory statement.
3. State whether the agency is tax-exempt pursuant to Internal Revenue Code section 501(c)(3) or another provision of the Internal Revenue Code.
4. State whether the agency currently is subject to examination or audit by the Internal Revenue Service or any state or local governmental entity.
5. Identify by name all officers and directors and their positions. For each officer or director, state:
  - a. the individual’s principal occupation and current employer (or, if retired, the individual’s previous principal occupation);
  - b. whether the individual has ever been convicted of a felony or a crime involving fraud, dishonesty or false statements; and
  - c. an itemized list of any compensation received by the individual from the agency in the last 12 months (e.g., salary, benefits or business transactions with the agency).
6. Provide the schedule for board of directors meetings for the past three years.
7. Provide a list and description for all litigation, mediation, arbitration, or state enforcement action or regulatory audit during the preceding twelve months, including any

Agency No. [insert]

judgments, dismissals (voluntary or involuntary), settlements, assurances of voluntary compliance, and consent decrees.

### Related Party Transactions

8. Identify the agency's highest paid employees and highest paid independent contractors (if any) and their current annual compensation or contractual payments.
9. Identify any asset transactions, contracts, leases, or other agreements in effect between the agency and any of its officers, directors, highest paid employees or independent contractors, or family members within the past three years. For each, describe
  - a. the asset(s) purchased or sold, or the nature of the contract, lease, or other agreement;
  - b. the individual involved; and
  - c. the price paid for the asset(s), or the terms of the contract, lease, or other agreement.
10. Identify any loans between the agency and any of its officers, directors, highest paid employees or independent contractors, or family members within the past three years. For each, describe
  - a. the amount of the loan;
  - b. the parties to the loan;
  - c. the loan terms and actual repayments; and
  - d. the date of approval by the Board of Directors.
11. Disclose any compensation or other benefits that agency officers, directors, highest paid employees or independent contractors, or their immediate family members, receive from any entity with which the agency conducts business, maintains any contracts, leases, or other agreements, or has a referral relationship.
12. Identify all referral arrangements between the agency and attorneys, law firms or document preparers (or similar entities) whether compensated or uncompensated, and whether written or oral. For each such entity identified, provide the following information:
  - a. a description of the relationship;
  - b. a description of the manner in which either the agency or the entity is compensated;



Agency No. [insert]

- c. whether either the agency or the entity collects fees on behalf of the other and then disburses the fees accordingly;
- d. whether the agency permits the attorney, law firm or document preparer to establish an account with the agency for purposes of billing, document upload or download, or other functions, as well as a complete description of the account services offered;
- e. whether the agency permits the attorney, law firm or document preparer to register, pay, or enter a payment code on behalf of the client before the client takes the counseling;
- f. whether the agency has any other financial relationship with the attorney, law firm or document preparer, such as a landlord-tenant relationship; and
- g. the agency's policy, if any, regarding the reimbursement of fees to clients when the client receives a full or partial fee waiver.

#### Financial Information

- 13. State whether the agency outsources any of its accounting or financial functions and identify the entity or entities to whom it outsources such functions.
- 14. State whether the agency offers debt management plans or debt repayment plans to any clients, whether pre-bankruptcy clients (pursuant to 11 U.S.C. § 109(h)) or not. If the answer is "no," continue to Item 16.
  - a. Does the agency offer debt management plans or debt repayment plans only to clients who are not pre-bankruptcy clients (pursuant to 11 U.S.C. sec. 109(h)) or does it offer such plans to all clients who seek budget or credit counseling, whether for pre-bankruptcy purposes or not? If the answer is "all clients," continue to Item 16.
  - b. If the agency offers debt management plans or debt repayment plans only to clients who are not pre-bankruptcy clients (pursuant to 11 U.S.C. § 109(h)), explain in detail the process by which
    - i. the agency determines the client's intention in seeking counseling (i.e., whether the client seeks counseling pursuant to 11 U.S.C. § 109(h) or not), including the timing of such a determination;
    - ii. the agency responds to a request, from a pre-bankruptcy client, for information concerning debt management plans or debt repayment plans; and
    - iii. the agency maintains records concerning such clients.

Agency No. [insert]

- iv. The agency shall also describe any procedures or structures the agency maintains to separate clients seeking pre-bankruptcy counseling from aspects of the counseling process that promote the agency's own debt management plan or debt repayment plan services.
15. Provide a list of all financial institutions in which any client trust funds are deposited, and provide the name of the institution(s), branch location, and account number(s).

Accreditation, Instructor Certification, and Qualification

16. State whether the agency belongs to any accrediting, industry, or trade associations, and list each such entity.
17. State whether the agency's accreditation with any organization has terminated for any reason within the last three years and explain the circumstances.
18. List each counselor and
- a. the counselor's certification by a certifying entity, if any, and
  - b. the date of the counselor's last criminal background check.
19. List the continuing education requirements for all certified counselors and describe the procedures the agency has implemented to ensure that counselors obtain the required continuing education.

Counseling Practices

20. Describe the process by which the agency provides credit counseling, including, without limitation,
- a. the process by which the agency enters into an agreement with a client to provide credit counseling, and a list of any documents the agency provides the client in connection with this agreement;
  - b. the nature of any initial intake with the client, including the process by which the agency gathers personal information about the client for any client file, provides required disclosures to the client, and establishes and verifies the client's identity, as well as a list of any documents the agency provides the client in connection with this process; and
  - c. the substantive content of the credit counseling session, as well as a list of any documents the agency provides the client in connection with the substantive counseling session.

Agencies not offering internet or telephone counseling may skip to Item 23.

Agency No. [insert]

21. For agencies offering telephone credit counseling, please also include the following information:
  - a. the mechanism by which a client commences the telephone credit counseling session (e.g., whether by dialing a telephone number, by making an appointment with the agency for the agency to originate the call, or otherwise);
  - b. the identity verification process;
  - c. the substantive content of the telephone credit counseling session, as well as a list of any documents the agency provides the client in connection with the substantive counseling session; and
  - d. the means by which the agency ensures a minimum counseling duration, including the means of timing the counseling session, the existence of a minimum counseling duration, and the nature of agency records that permit quality control regarding duration of counseling sessions.
22. Describe the process by which the agency provides internet credit counseling, including, without limitation,
  - a. the mechanism by which a client commences the internet credit counseling session;
  - b. the identity verification process;
  - c. the substantive content of the internet credit counseling session, as well as a list of any documents the agency provides the client in connection with the substantive counseling session;
  - d. the means by which the agency ensures a minimum counseling duration, including the means of timing the counseling session, the existence of a minimum counseling duration, and the nature of agency records that permit quality control regarding duration of counseling sessions; and
  - e. the process by which the client interacts with a person providing counseling, as well as the content of the client interaction with the counselor, and the timing of the interaction.
23. Describe the nature of any follow-up sessions with clients, including any specific agency procedures for follow-up.
24. State whether the agency or its personnel provide counseling to clients on behalf of other credit counseling agencies or their personnel and
  - a. identify the other agency or agencies on whose behalf the agency provides counseling;

Agency No. [insert]

- b. describe the process by which the agency receives and satisfies requests to provide counseling on behalf of other agencies; and
- c. describe whether the agency receives compensation for providing counseling on behalf of other agencies, the nature and amount of such compensation, and whether such compensation is paid by the client, the client's representative, or the other agency.

#### Fees and fee waivers

- 25. State the fees the agency charges clients (both individually and jointly), and disclose
  - a. any variances from the fee schedule for non-need based special circumstances, such as agreements with attorneys, law firms, bankruptcy petition preparers, or others;
  - b. any discount or other non-need based promotions the agency offers with respect to its fees, whether offered to the general public or not; and
  - c. whether the agency includes fee reductions or discounts based on non-need based arrangements when reporting fee waivers and reductions on "Appendix E: Activity Report for Approved Credit Counseling Agencies."
- 26. State the agency's fee waiver policy, and describe:
  - a. the timing of the fee waiver determination (i.e., whether before or after the start of counseling);
  - b. the documentation, if any, the agency requires, including any specific requirements such as delivery in a certain format (e.g., by mail, fax, or internet), and specific financial information such as tax returns, pay stubs, W-2 forms, or utility bills; and
  - c. whether or not the agency withholds certificates at the completion of counseling pending a fee waiver determination or pending payment from the client.

#### Certificate issuance

- 27. To the extent not already addressed in your responses to the above questions, describe the process by which the agency issues certificates of completion of credit counseling to clients or clients' counsel.
  - a. Describe the manner in which the agency generates the certificate of completion or accesses the Certificate Generation System. To the extent the agency generates the certificate other than by requiring the counselor who provided the counseling to log in, input data, and issue a certificate, please describe the certificate issuance process in detail.

Agency No. [insert]

- b. State whether the counselor who provides the counseling is also responsible for issuing the certificate.
- c. Describe the mechanism for transmitting certificates of completion of credit counseling to clients or clients' counsel.
- d. State whether the agency or its personnel issues or has ever issued certificates on behalf of other credit counseling agencies or their personnel and
  - i. identify the other agency or agencies on whose behalf the agency issues or issued such certificates;
  - ii. describe the process by which the agency receives and satisfies requests for issuance of certificates on behalf of other agencies; and
  - iii. describe whether the agency receives or received compensation for issuing certificates on behalf of other agencies, the nature and amount of such compensation, and whether such compensation is paid by the client, the client's representative, or the other agency.

#### Recordkeeping

- 28. Describe the procedures the agency has established for maintaining client files, including a description of the required or expected contents for a complete client file.
- 29. Describe the agency's recordkeeping policies and procedures regarding credit counseling sessions, including, without limitation:
  - a. whether the agency records, in electronic or analog format, telephone counseling sessions with clients, any policies or procedures concerning storage and disposal of such records, and the location of any such records;
  - b. whether the agency maintains, in electronic or paper format, copies of electronic correspondence with clients, and any policies or procedures concerning storage and disposal of such records, and the location of any such records;
  - c. whether the agency maintains, in electronic or paper format, copies of paper correspondence with clients, and any policies or procedures concerning storage and disposal of such records, and the location of any such records;
  - d. whether the agency maintains its own internet server for purposes of internet and credit counseling, or whether the agency uses a third-party web hosting service for such purposes; and
  - e. regarding (d), state the location of any internet server the agency uses for purposes of internet credit counseling.

Agency No. [insert]

Client satisfaction and access

30. Describe any procedures the agency has developed for measuring counseling effectiveness and customer satisfaction.
31. State the agency's policy regarding assisting clients with limited English proficiency.
32. Describe the agency's policies and procedures in place during the past year relating to intake, processing, and resolution of complaints received concerning its credit counseling and debtor education services, including, without limitation:
  - a. the agency's policies and procedures concerning storage, retention, and disposal of paper or electronic mail evidencing such complaints;
  - b. the agency's policies and procedures concerning creation and maintenance of business records or logs documenting telephone complaints; and
  - c. the agency's policies and procedures concerning storage, retention, and disposal of documents evidencing the agency's responses to such complaints.

Agency No. [insert]

# **APPENDIX C**

(Document List)

The following documents should be made available for inspection upon the QSR team's arrival on [insert].

	<b>Document Description</b>
1.	Correspondence files from the past two years for <ol style="list-style-type: none"><li>regulatory agencies (both state and federal, including without limitation the IRS, state taxing authorities, state attorneys general, and secretaries of state);</li><li>complaints;</li><li>credit counseling associations; and</li><li>membership and accrediting organizations</li></ol>
2.	Litigation, mediation, and arbitration files from the past two years
3.	The Agency's general ledger for the past two years
4.	Payroll and personnel records and supporting documents from the past two years, including, without limitation, <ol style="list-style-type: none"><li>background checks;</li><li>employee certifications;</li><li>employment contracts or agreements;</li><li>personnel evaluations;</li><li>bonus and pension plans;</li><li>training records;</li><li>disciplinary records; and</li><li>resumes and employment applications</li></ol>
5.	Individual client files, including recordings or transcripts of counseling sessions, whether in electronic or paper format; internet service provider (ISP) records concerning the client's internet counseling session; counselors' notes; receipts and disbursements; and correspondence with the client or the client's counsel  Upon arrival, EOUST personnel will provide a list of certificates numbers associated with the client files to be produced.